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Thematic discussion on international cooperation in criminal matters

Statement submitted by the International Sociological Association, a non-governmental organization in consultative status with the Economic and Social Council**

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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Thematic discussion on international cooperation in criminal matters

The International Sociological Association (www.isa-sociology.org) was founded in 1949 under the auspices of UNESCO. The goal of the ISA is to represent sociologists everywhere, regardless of their school of thought, scientific approaches or ideological opinion, and to advance sociological knowledge throughout the world. Its members come from 167 countries. The ISA has partnered with Criminologists Without Borders (http://www.criminologists-without-borders.org) to produce a review of the scientific literature on this year's theme. Criminologists Without Borders is a registered non-profit organization composed of criminologists, researchers, professors and those working in the field which provides objective information and research to inform policy and programs dealing with crime and criminal justice. It offers a neutral forum for the pursuit of ideas and practices informed by evidence.

This statement summarizes recent research published in scientific books and academic journals. A full handout will be available at the start of the CCPCJ 23rd Session, including extracts from the research summarized herein.

Knowns and Policy Recommendations

Trends in International Police Cooperation

- Despite the creation of supranational agencies such as EUROPOL and INTERPOL fostering multilateral exchanges, most of international police cooperation happens at the bilateral level often undermining larger collaborative efforts. A major consequence of this trend is the duplication of efforts and wasting of resources from several nation states. Promoting multilateral police cooperation can help to build a community of practice, standardization of information exchange processes, and stronger legal framework.

- Studies available mainly cover police and judiciary cooperation between core countries located in North America, Europe, Asia/Pacific regions. The review of literature on police cooperation reflects the rapid growth for more international security in the wake of the creation of free trade zones and economic treaties such as Maastricht, NAFTA, and ASEAN. The downside of this "North-North" hemisphere police cooperation trend is that little is known on what is happening in "North-South" or "South-South" judiciary relations. This situation also implies that nation states that are not part of the core-industrialized countries are left aside, creating critical "black holes" in the evolving international policing governance model. More field studies are required to better understand how police and judicial cooperation happens between non-core industrialized countries.

Legal Framework

- Differences in nation states' legal systems remain certainly one of the most important challenges to international police cooperation. Some initiatives such as the creation of EUROJUST have provided new tools and solutions to the conduct of

transnational investigations but deep differences remain between countries that make police cooperation inconsistent.

- The practicalities of international police cooperation happen often in a legal vacuum where state and non-state actors try to assert their influence and enforce domestic laws in the global arena. This reality has raised issues and continues to challenge basic principles of sovereignty and subsidiarity.

- Several nation states refrain or limit police cooperation with some countries in order to protect the legal rights of their own citizens. For instance, democratic countries have limited police cooperation with non-democratic regimes due to legal differences related to human rights, rule of law, and due process rights.

- During the past decade, barriers related to the exchange of personal information between national police forces have considerably weakened, but there are increasing concerns about protection of personal data and civil liberties as personal data gathering increases.

- International police cooperation activities are mainly taking place under Mutual Legal Assistance Treaties (MLATs) between two countries. Some occurs through supra-national entities but when formal channels do not exist, international police cooperation still happens informally between police practitioners with less accountability.

Policy issues

- At the international level, police cooperation tends to happen under foreign policies related to drug trafficking and other transnational organized crimes. The doctrine of "it takes a police network to tackle a criminal network" prioritizes high profile crimes and sometimes overlooks other pressing issues such as white-collar crime or domestic violence.

- Despite the fact that numerous nation states are engaged in international police cooperation, there are few common policies related to model practices, strategy, and training which undergirds effective police cooperation. This lack of standards and norms creates misunderstandings as well as false expectations among nation states.

- Currently, international police cooperation mostly takes place between countries' national law enforcement agencies and does not integrate non-state actor such as privately own companies (e.g., banks and high tech companies). Nonetheless, these actors often play a central role in international investigations related to money laundering and Internet frauds but are not integrated or recognized formally as actors of police cooperation.

Unknowns

- International Police Cooperation — Performance Indicators. We do not have adequate knowledge of the effectiveness of international police cooperation. Several national police organizations report on some outcomes from international operations

(arrest and seizures) but this is only a very small portion of the police activities conducted at the international level.

- Best Practices. We do not know which cooperation practices are more effective and more respectful of legal frameworks. Evaluative research is highly needed in that sector.

- Global Policing Oversight. There is not adequate knowledge about possible misconduct and abuse resulting from police cooperation efforts. There is no independent civilian oversight organization to scrutinize international police cooperation activities.

- Training and selection process. Little is known about the preparedness of those who participate in international police cooperation. For example, some countries have a non-transparent nomination process for their police representatives, while others require a thorough selection process based on career achievements and specific skills sets.

- Organized Crime Adaptation. At national level, several studies have been conducted on organized crime adaptability to police operations/investigation by using counter-measures. We don't have good information about the counter-measures employed by organized crime to circumvent strategic initiatives such as EUROPOL's Joint Investigation Teams.